IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 19654 of 2006(M)

AGAINST THE ORDER DATED IN I.A.301/2006 IN
EOP.40/2004 of I ADDL. DISTRICT COURT, THRISSUR

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PETITIONER:

M.A. KAMALAM, AGED 60 YEARS,
W/O. KARUNAN, MAKKALAYAKKAL HOUSE,ENARC APARTMENTS
MARAR ROAD, THRISSUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.P.SANTHOSH (PODUVAL)

RESPONDENTS:

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1. ASSISTANT EXECUTIVE ENGINEER,
TRANSMISSION CONSTRUCTION SUB DIVISION,
K.S.E.BOARD, KUNNAMKULAM.

2. EXECUTIVE ENGINEER,
TRANSMISSION CIRCLE, THRISSUR.

3. KERALA STATE ELECTRICITY BOARD,
REPRESENTED BY THE SECRETARY, KERALA STATE
ELECTRICITY BOARD, THIRUVANANTHAPURAM.

BY ADV.JOSE J.MATHEIKEL, SC.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.19654/06

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF ELE.O.P.40/04 BEFORE DIST. COURT, THRISSUR.

EXT.P2 – TRUE COPY OF NOTICE DT.10.9.05

EXT.P3 – TRUE COPY OF AWARD PASS BY LOK ADALAT, THRISSUR.

EXT.P4 – TRUE COPY OF APPLICATION IN I.A.301/06 FILED BY PETR. BEFORE DIST. COURT.

EXT.P5 – TRUE COPY OF ORDER IN I.A.301/06 IN EOP.40/04 DT.17.2.06 OF DIST. COURT, THRISSUR.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.19654 OF 2006

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DATED THIS THE 17th JULY, 2007

J U D G M E N T

Impugned in this Writ Petition under Article 227 of the Constitution is Ext.P3 award of the Lok Adalat which was presided over by the Additional District Judge, Thrissur and an advocate as Member. The ground which is seriously raised by the petitioner is that she had not authorised the then Advocate Mr.Pradeep Kumar who settled the claim in Ele.O.P.No.40 of 2004 which was for a sum of Rs.33 lakhs and odd for the paltry amount of Rs.10,000/- which has been awarded under Ext.P3.

2. The Electricity Board has filed a detailed statement. It is not disputed therein that the award was passed in the absence and without the junction of the petitioner. The statement only tries to justify the stand of the K.S.E.B. and does not deny the petitioner's contention that the action of the advocate in settling the claim for so low an amount was unauthorised. According to the Electricity Board, essentially the dispute is between the petitioner and her counsel.

3. The question for consideration is whether Ext.P3 award is the result of a settlement between the parties to the Electricity O.P. which was filed by the petitioner. The further question will be whether in

arriving at the settlement discernible from Ext.P3, the concerned were guided by principles of justice, equity and fair play and other legal principles. I do not propose to say anything about the merits of the petitioner's claim in the Electricity O.P. However, since it is practically conceded before me that Ext.P3 award did not have complete consensus of the petitioner, I am of the view that considerations of justice and fair play demand that Ext.P3 is set aside. I do so and direct the First Additional District Judge, Thrissur to try the Electricity O.P. and dispose of the same in accordance with law, at the earliest and at any rate within two months of receiving copy of this judgment.

(PIUS C.KURIAKOSE, JUDGE)

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